



Gender Watch

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COVER STORY



[Source](#)

In Letter but not in Spirit

I. Introduction

The revelations of rampant physical and sexual abuse of girls in two different shelter homes have laid bare the dire situation of the shelter homes in the country. First in late July, gruesome details of the situation in the shelter home in Muzaffarpur came out when police took action against the accused. This was based on a report by a team of researchers from TISS commissioned by the state government to conduct a social audit of all the 110 shelter homes in Bihar. It was revealed that 29 (now 34) minor girls (aged 7 to 17) out of 44 had been subjected to sexual abuse in the shelter home run by NGO *Seva Sankalp Evam Vikas Samiti* (Fresh Medical Reports Confirm 5 More Rape Cases At Bihar Shelter Home, 2018). The involvement of members from the child welfare committee as well as politicians further aggravated the situation. Within few days of this, another set of horrifying details came to light from a shelter home in Deoria in Uttar Pradesh. It was found that the girls in a shelter home (Maa Vindhyaasini Mahila and Balika Sanrakshan Griha) were being subjected to constant physical and sexual abuse (Seth, 2018). The disturbing details of both the events led to outbreak of public anger against the state as well as the central government. Sadly, these are not isolated events. The above mentioned TISS report revealed that almost all the shelter homes (110) in Bihar were not complying with the guidelines, there were 6 other cases of sexual abuse and 14 cases of physical violence (Singh, 2018). A

number of such cases have come to light from other states as well. The central government in its response to the Supreme Court revealed that in a survey of 9,589 child care institutions completed in 2017, 1,575 cases of sexual abuse was found (1575 Minor Victims Of Sex Abuse Stay At Child Care Institutions: Centre, 2018). In this issue of Gender Watch, we identify some of the core concerns that have impacted the working of child care institutions in the country and have led to this grim situation.

II. Who are these children?

According to Juvenile Justice (Care and protection for children) Act 2015 child care institutions are meant for housing 'Children in need of care and protection' or 'Children in conflict with law'. 'Children in conflict with law' are the children who have committed an offence but are less than eighteen year old on the day of the commission of the offence. 'Children in need of care and protection' constitutes of a number of parameters. These include children, who have been abandoned by their guardians, do not have a home of their own, are physically or mentally challenged with no one to look after them or are in a vulnerable situation like working in contravention of labour laws or living under potential threat of assaults from people around them. According to government record there are a total of 2.61 lakh children living in CCIs at present. This figure though differs from the figure of 4.73 lakh that came out in the survey of CCIs by Childline Foundation completed in last December (Supreme Court shocked over 2 lakh children 'missing' in survey on child care institutions, 2018). According to the survey 9,382 children reside in the homes belonged to the category of 'Conflict with law'. The mammoth difference in the figure though does not speak well for government's mechanism. Let us now look at the regulatory and monitoring mechanism of the Child Care Homes.

III. Regulatory and Monitoring mechanism of the Child Care Institutions

- **What are Child Care Institutions?**

CCIs include children homes, observation homes, special homes, places of safety, special adoption agency and open shelters. These are either managed by state government or non-governmental organization for providing residential care to children on a short-term or a long-term basis. According to the latest government data there are a total of 7109 registered CCIs in the country. Tamil Nadu has the maximum number of CCIs (1296) in all the states with the maximum number of inmates (62023). The states of Karnataka and Andhra Pradesh come at second and third number with 918 and 824 CCIs with 37014 and 30681 inmates respectively. The data of the other states is available here¹.

- **Source of fund:** In the present mechanism, the setting up and maintenance of these institutions are funded **centrally by Ministry of Women and Child Development** under "**Integrated Child Development program**".

¹ 164.100.158.235/question/annex/246/Au1109.docx

- **Legal Provisions:** These institutions are required to register themselves with the state government under **the Juvenile Justice (Care and Protection of Children) Act 2015**². The standard facilities and parameters for the institutions are listed in **Juvenile Justice Act (Care and Protection of Children) Model Rules, 2016**³ on the basis of which auditors are expected to judge and review the homes. Now let us look at the monitoring mechanism.

- **For monitoring by the centre, National Commission for protection of Child Rights (NCPDR)** a statutory body is the nodal agency for monitoring the implementation of the directions by Supreme Court asking the states to implement the provisions of the JJ Act. It is mandated to inquire into complaints or take suo motu notice of violation of child rights under the POSCO act 2012.

- **The primary responsibility of execution of the JJ Act lies with the state/Union territories.** The clauses in the Act also reiterate the claim except **the clause 55(2) which states** that in case of independent evaluation by both the state as well the central government, **the evaluation made by the Central government shall prevail.** All the other sections of the Act lay down the responsibilities of state government as well as the other bodies responsible for monitoring the working of the institutions.

- **Salient features of JJ act sections regarding monitoring mechanism of CCIs:**

- **Child Welfare Committees:** State government shall constitute a Child Welfare Committee in every district. Committee shall consist of a chairperson and four other members. The committees should have four members and one chairperson. It should have one women member and one expert on the matters of the children. District magistrate is required to conduct a quarterly review of the committee.

The committee has a set of functions, ranging from taking the cognizance of and receiving the children produced before it, conducting inquiry on all issues affecting the safety and well-being of the children under the JJ Act, conducting at least two inspection visits per month of residential facilities for children in need for care and protection.

- **Management Committee:** Every Child Care Institution is required to have a Management Committee to monitor the affairs of the home. The Chairperson of the committee is the District Child protection Officer.

- **District inspection committee:** State government shall appoint inspection committees for the state and district for all the child care institutions. Inspection committees shall mandatorily conduct visit to the institutions once in three months and should have at least three members. The committee

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<http://www.prindia.org/uploads/media/Juvenile%20Justice/JJ%20bill%20as%20passed%20by%20L.S.pdf>

³ <http://www.wcd.nic.in/sites/default/files/171861.pdf>

should have at least one woman and one medical officer. The reports of the visit are required to be submitted to the District Child Protection Unit.

The existing system as we can see has a number of provisions for monitoring the working of the Child Care institutions and yet the shocking set of incidents across different states is reflective of the failure of this existing mechanism and therefore it becomes pertinent for us to identify the reasons that might have led to the present situation.

IV. Key issues in the existing mechanism

Both the incidents of Muzaffarpur as well as Deoria have highlighted the major shortcomings of the present system. The sheer extent to which the rules were being flouted is a grim reminder of the scale of the problems. Some of the core set of concerns are:

- **Responsibility of the central government:** While it is true that the central government is not directly involved in the running of the CCIs, it does play a supervisory role since it provides the funding. Therefore its culpability for the current situation needs to be taken into account. The central government has the power to carry out social audits and take action against non-compliance. As stated above, the central government shared the figures of the survey completed in 2017 stating that 1575 cases of sexual abuse have been reported. The same survey had pointed out that a total of 4,416 homes were using harsh and regressive methods against children. While in a parliamentary response, the government stated that it has pursued only 38 cases of abuse in last three years in CCIs. This implies that the central government chose to avoid taking action even after having the knowledge of the scale of the problem. The government ordered a pan-country social audit of all the CCIs after the reports of the Muzaffarpur and Deoria got highlighted in the media. It is evident that the government allowed problems to aggravate and was forced to take action after the incidents got highlighted in Media. While the central government certainly needs to bear the responsibility, the other set of concerns that have come to light after the incidents direct us towards much deeper rot in the system.
- **Administrative failure**
 - a) **Complicity of the officials:** One of the core concerns that the recent cases have highlighted is the level of complicity of the people mandated to monitor the system. The present mechanism puts a great deal of onus on the district level bodies. In the Muzaffarpur case, the members of the district child protection officer as well as the members of the district child welfare committee are part of the list of the accused people. The latter is a quasi-judicial body. The failure of such bodies raises doubts on the efficacy of having a decentralised mechanism in place. Moreover, the facts that have surfaced after the events broke out in media further demonstrate the colossal administrative failure. According to media reports, the NGO that was responsible for the Muzaffarpur NGO got a contract as late as 31 May, the same day the police filed a FIR against it and two months after the submission of report

(singh, 2018). Similarly, the registration of NGO in Deoria was cancelled in 2017 and yet it continued to function (Inmates Were Sent to Deoria Shelter Home Even After It Was Derecognised, 2018).

b) **Nexus involving officials and politicians:** Another common concern that stemmed out of the events is the nexus of those running the shelter homes with politicians, administrative officers and police officials. In Muzaffarpur case, along with the involvement of the district officials, the husband of former social welfare minister is accused of being involved in the wrongdoing of the NGO. In Deoria case, the police officials have been accused of dereliction of duty (Shelter home case: Deoria SP transferred, role of police stations being investigated, 2018).

- **Shortcomings in the method of Monitoring :**

a) The existing mechanism has a number of provisions of inspections from different authorities and yet none of these managed to uncover the prevailing situation in the shelter homes revealed by the TISS Survey. The present system with its committees at district level, government agencies or officers stress on the administrative aspects of the shelter homes overlooks the lived experience of the inmates.

b) **Lack of sensitisation** among the staff and those who run these shelter homes is evident from the recent events and data that have come in public knowledge. It needs to be pointed that there are provisions in the JJ Act to sensitize different stakeholders involved. Sensitisation of people who are running the centre is an essential aspect that needs to be emphasized.

- **Economic mismanagement**

Mismanagement of funds as well as lack of transparency in the flow of funds is another issue that is ailing the present system. This was prevalent in the cases of Muzaffarpur and Deoria as well. Brajesh Thakur, who was running the Muzaffarpur shelter home, was getting INR 1 crore rupees every year by the state to run five shelters for girls and women in Muzaffarpur (Poonam, 2018). The fact that he was being provided with the sum irrespective of the situation of the shelter homes is reflective of lack of scrutiny in usage of funds. Similarly in the case of Deoria, Girija Tripathi, responsible for running the centre confessed swindling of funds. These developments underscore the failure of the social welfare department to keep a scrutiny on the financial functioning of the shelter homes.

Experts argue that although the existing mechanism does contain a number of provisions to keep the working of shelter homes under check, the failure in their execution is reminder of their inadequacy. Therefore a number of suggestions and recommendations have put forward. Some of these are listed below.

V. Recommendations and Suggestions by experts

- **Changes in Audit methodology**

a) **Making social audits mandatory:** A social audit unlike administrative inspections stresses on the lived experiences of those who are staying in the shelter homes. The case study of Muzaffarpur is a prime example of this. The researchers responsible for the audit stressed on the actual experience of the inmates putting them at the centre of the questionnaire (and not the facilities). Surprisingly, this was the first time a state commissioned a social audit for shelter homes. Mohammad Tarique, head of the research team that conducted social audit of shelter homes in Bihar argues that there is an urgent need of making social audits mandatory. Regular social audits according to him will contribute immensely in making shelter homes more accountable in their working (Johari, 2018). Moreover, there is also an argument of making inspection visits regular but without giving prior notice to the shelter homes.

b) **Involving non-state agency:** Experts also recommend involving a non-state agency in the social auditing process as that will help in countering possible nexus of state agencies with the organizations as was the case in these recent cases.

- **Consistent sensitisation of the all the stakeholders involved:** Experts argue that efficient monitoring methods for CCIs need to be complimented with constant sensitisation about the rights of the inmates. The women and children in shelter homes constitute the most vulnerable sections of the society and it is important that they are treated as fully rights-bearing citizens and should be empowered as they are the biggest stakeholders of these shelters. Therefore, those running the centre (including the staff) as well as other stakeholders responsible for the smooth functioning of the homes need to be aligned to this understanding.
- **Financial auditing by an external agency:** As we saw in the recent cases, misappropriation of the funds is a constant feature in the working of CCIs. This again reminds of the failure of the existing mechanism. Thus the need for auditing of the finances of the shelter homes by an external authority is critically important and can prove effective in bringing transparency in the working of the child care institutions. Vidya Reddy of Tulir – Centre for Prevention and Healing for Child Sexual Abuse argues that registering and monitoring of these homes should not just under the purview of social welfare departments but it should also be included in the ambit of the income tax department (Lalwani, 2018).

VI. Way Forward

At the outset it needs to be acknowledged if implemented in spirit, JJ Act 2015 has a number of provisions to deal with the malfunctioning of Child Care Institutions. The task at hand therefore is to bring in provisions and policy instruments to make them work. The case of Muzaffarpur is a clear example of this. The social audit managed to do what a number of inspections be it state women commission, district inspection committee failed to do. The complicity of the state agency therefore makes the role of the external independent body extremely critical. The nature of this body can vary. For example, the Supreme Court suggested the central government to appoint national as well as state level commissions to monitor the working of the CCIs. It was suggested that these could be constituted of civil society members and headed by a former Judge. At the same time, the cases of deplorable conditions of CCIs are also emblematic of lack of sensitisation among those who are responsible for running the centre as well as the ones responsible for monitoring it. Therefore consistent efforts are required to be made in this direction.

The Bihar government after the Muzaffarpur revelation cancelled the selection of the NGOs and decided to run the shelter homes on its own. The Women and Child Development minister has also proposed an idea of state and centre running a common shelter home on its own. While such initiatives might seem apt considering the conditions of CCIs run by NGOs, we need to take into account the involvement of state authorities in the highlighted cases. The situation at hand demands a grounded approach by keeping the women and children at the centre. Their psychological needs, their personal freedom, their involvement in decisions pertaining to their lives, all these needs to be accounted for. Punitive action against the culprits and violators is necessary but at the same time we need to instil a sense of self-worth among those who have been failed by the system.

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EQUALITY

Women flies fighter plan in Japan for the first time

Justin McCurry, The Guardian

Matsushima became Japan's first female fighter pilot after completing her training this week. Three years ago, Japan had lifted its ban on women becoming fighter pilots.

Japan's air force relaxed gender based restriction on a host of roles in 1993 but continued to allow only men to pilot fighter jets and reconnaissance aircraft.

Matsushima, a graduate of Japan's National Defence Academy, initially planned to fly transport planes but set her sights on becoming a fighter pilot as soon as the gender restrictions were lifted in late 2015, as part of Prime Minister Shinzo Abe's mission to create more work opportunities for women.

Ryoko Azuma became the first woman earlier this year to command a warship squadron as Japan's navy attempts to make up a shortfall in personnel caused by the dwindling population of working-age people.

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Venice Film Festival criticized for lack of films produced by women

Catherine Caruso, The inquisitr

The Venice Film Festival, which started on 29th August, is being criticized by the European Women's Audiovisual Network and other women's organizations for leaving out women directors from the festival's competition section. Only one film directed by a woman has been included in the competition titles and this has happened for the second year in a row. The movie accepted for this year's festival is Jennifer Kent's "The Nightingale."

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Project Soar succeeds in empowering teenage girl in Morocco

Marjorie Olster, The New York times

Maryam Montague is a former humanitarian aid worker and an entrepreneur who runs the Project Soar. Project Soar offers girls academic support, empowerment coaching, health education, sports and arts classes. It is free for girls, but to take part, they must pledge to stay in school. The program started in 2013 in Douar Laadam, since then Project Soar has expanded to 21 sites around Morocco, and around 475 girls have participated. The initial idea was to offer teenage girls an incentive to stay in school so that they would postpone marriage and childbearing. In exchange for a commitment to continue their studies, the girls get access to after-school programs that otherwise do not exist in such villages.

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DEMOCRATIC PARTICIPATION

US's most sexist states revealed in major new report.

Maya Oppenheim, The Independent

America's most sexist states have been revealed in a new report which suggests that women from areas with higher levels of misogyny earn less money. This report states Arkansas to be the most sexist among all state as stated by the researchers at the University of Chicago's Becker Friedman Institute and National University Singapore. New Hampshire was the last in the list.

They also sought to understand the prevalence of sexist beliefs in the areas where women grew up and in the places they worked as adults affected outcomes such as wages, workforce participation, and the age they marry or have children. They concluded that the prevalence of sexism in a women's birth state appeared to affect her later earnings and outcomes even if she relocates to a place with less sexism.

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Recent exhibitions brings out obscured roles of women in war

Andrea Goldstein, The New York Times

An exhibition on the role of women in world war was recently held at International World War II museum in Natick. Most of the women participated in the war, and often in jobs that were unheard-of for women. According to Sue Wilkins, the museum's education director, most visitors of the exhibition were surprised to learn that women's wartime roles went beyond Rosie the Riveter-style industrial work. Women in the war had worked in different positions as pilots, snipers, garbage collectors and window washers, concentration-camp guards and nurses. In the 1950s, the impulse to glorify the war and return to traditional values obscured the full extent of women's contributions.

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ACCESS TO HEALTH AND SANITATION

Scotland Government will provide free sanitary products in schools

Catriona Webster, The Independent

The Scottish Government will hand out free sanitary products in schools as a part of a pilot project. The six-month pilot project will be run by Community Food Initiatives North East (CFINE), a social enterprise which focuses on improving health and well being of the poor through the Fare Share surplus food network. Equalities Secretary of Scotland, Angela Constance said: "It is unacceptable that any woman or girl in Scotland should be unable to access sanitary products".

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UN Stresses on the timings of the breastfeeding

UN News

"When it comes to the start of breastfeeding, timing is everything," said Henrietta Fore, the UN Children's Fund's (UNICEF) Executive Director, on the eve of World Breastfeeding Week. "In many countries, it can even be a matter of life or death," she added. World Breast Feeding is celebrated annually from 1 to 7 August to encourage breastfeeding and improve the health of babies around the world by providing infants with the nutrients they need. As stated by the report; Capture the Moment, newborns who are breastfed in the first hour of life are significantly more likely to survive, but around 78 million newborns are excluded from that.

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How to reduce the Mental Health Risk for Gender-Nonconforming Kids

David Levine, US News

The article raises the much neglected issue of mental issues of LGBTQ youth. It states that according to the National Alliance on Mental Illness, LGBTQ youth are nearly three times more likely than others to experience a mental health condition.

In a large national survey conducted by the National Center for Transgender Equality in 2015, 40 percent of respondents reported at least one suicide attempt during their lifetime. The vast majority of reported attempts – 92 percent – occurred before age 25. Remedies involves having open and affirming conversation with the children and schools and community centres wherein they both learn and explore their identities.

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VIOLENCE AND SAFETY

Saudi Arabia seeks death penalty against female human rights activist

Emma Graham-Harrison, The Guardian

Saudi Arabian prosecutors are seeking death sentence for five human rights activists, including a woman who is thought to be the first female campaigner in the country facing execution, rights groups have said. Israa al-Ghomgham, a Shia activist arrested with her husband in 2015, will be tried in the country's terrorism tribunal even though charges she faces relate to peaceful activism, Human Rights Watch said. Women have been executed before in Saudi Arabia, which has one of the world's highest rates of execution: suspects convicted of terrorism, homicide, rape, armed robbery and drug trafficking face the death penalty. But Ghomgham is the first woman to possibly face execution for activism, and other campaigners fear it could set a dangerous precedent. She will be tried in the specialised criminal court set up in 2008 for terrorism cases. The kingdom has previously executed Shia activists following trials at the same court that Amnesty International described as "grossly unfair".

The UN has also previously warned that Saudi Arabia was abusing anti-terror laws and institutions to crack down on dissent.

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UN calls for Myanmar official for genocide charges against Rohingyas

Al-Jazeera

Myanmar's military carried out mass killings and gang rapes of Rohingyas with "genocidal intent" and the commander-in-chief and five generals should be prosecuted, UN investigators said. It was the first time the United Nations explicitly called for Myanmar officials to face genocide charges over their campaign against the Rohingyas, and is likely to deepen the Southeast Asian nation's isolation. The UN mission found Myanmar's armed forces had taken actions that "undoubtedly amount to the gravest crimes under international law", forcing more than 700,000 Rohingyas to flee starting in late August 2017.

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Sweden's music festival is reserved for women and transgender to ensure their safety

(Christina Anderson and Ceylan Yeginsu, The New York Times)

The Statement Festival in Gothenburg, Sweden is the world's first music festival which is exclusively for women and transgender. This event is first of its kind as it has the unequivocal goal of creating a safe space for women. The event is being held after a wave of episodes of sexual harassment at other events in Sweden, including allegations of rape and 23 sexual assaults at the country's biggest music festival, Bravalla, which was canceled this year because organizers could not guarantee a safe environment.

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